

ESTTA Tracking number: **ESTTA746012**

Filing date: **05/12/2016**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91212905
Party	Defendant OCC Establishment
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Submission	Motion to Suspend for Settlement Discussions
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Date	05/12/2016
Attachments	MUSIC NOW - Motion for 60-day Suspension.pdf(30837 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In the matter of Application Serial No. 78/835,315

EMI (IP) LIMITED	)	
	)	
Opposer,	)	
	)	
v.	)	Opposition No. 91212905
	)	
OCC ESTABLISHMENT,	)	
	)	
Applicant.	)	
	)	

-and-

In the matter of Registration No. 2,100,606

EMI (IP) LIMITED	)	
	)	
Petitioner,	)	
	)	
v.	)	Cancellation No. 92058236
	)	
OCC ESTABLISHMENT,	)	
	)	
Respondent.	)	
	)	

**MOTION FOR SUSPENSION FOR SETTLEMENT WITH CONSENT**

OCC Establishment hereby moves, with consent, to suspend the discovery and trial deadlines in this matter by sixty (60) days pursuant to 37 C.F.R. § 2.117 and T.B.M.P. § 510.

Pursuant to the Board's order of March 16, 2016, as good cause therefor, the parties state that they have actively been engaged in settlement discussions and provide the

following detailed report. Specifically, counsel for OCC Establishment, Respondent, received a counterproposal from EMI, which EMI discussed both internally and with an unaffiliated entity, Sony Music Entertainment UK (which owns the NOW Marks within the European Economic Area). In turn, OCC has taken EMI's counterproposals to its management for further consideration. OCC's management has reviewed the counterproposal and on or about May 10, 2016, counsel for OCC presented an amended counterproposal for consideration to EMI's counsel.

In sum, since the last request for suspension, the parties have remained actively engaged in settlement discussions and have exchanged further proposals to that end. Given the scope of the rights at issue, the parties need more time to review and discuss the current proposals and counterproposals in order to continue working toward a potential settlement. As previously stated, the parties have tentatively agreed on several outstanding issues and expect that continued negotiations will result in a final resolution of this dispute.

OCC Establishment has secured the express consent of all other parties to this proceeding for the suspension requested herein.

**Dates as Reset:**

Time to Answer :	CLOSED
Deadline for Discovery Conference :	CLOSED
Discovery Opens :	CLOSED
Initial Disclosures Due :	CLOSED
Expert Disclosures Due :	CLOSED
Discovery Period to Close :	July 12, 2016
Plaintiff Pretrial Disclosures :	August 26, 2016
Plaintiff's 30-day Trial Period Ends :	October 10, 2016
Defendant's Pretrial Disclosures :	October 25, 2016

Defendant's 30-day Trial Period ends :	December 9, 2016
Plaintiff's Rebuttal Disclosures :	December 24, 2016
Plaintiff's 15-day Rebuttal Period Ends :	January 23, 2017

Dated: May 12, 2016

Respectfully submitted,

OCC ESTABLISHMENT

By: /s/Christopher Weimer

Christopher Weimer  
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ATTORNEYS FOR OCC ESTABLISHMENT

### **CERTIFICATE OF SERVICE**

I hereby certify that a true and complete copy of the foregoing Motion for Suspension for Settlement with Consent has been served by electronically transmitting said copy, with the consent of EMI (IP) Limited, on May 12, 2016, to:

BRENT S LABARGE  
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/s/Christopher Weimer

Christopher Weimer